

The Sponsorship System and Infringements of the Rights of Foreign Workers in the Gulf Countries

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Previous research on foreign workers in the oil-rich Gulf countries indicates that the origins of some of the major problems encountered by these workers are found in the labor and residence laws and regulations. An initial investigation revealed that exploitation of foreign workers is facilitated by the powers granted to the employer by the sponsorship system. Data used in this research were obtained from available information about foreign workers in Saudi Arabia. Results obtained here confirm that unscrupulous employers abuse the sponsorship system to deprive their foreign employees of their rights. A number of measures to remedy this situation are recommended.

KEY WORDS: foreign workers; labor laws of the Gulf countries; sponsorship system.

INTRODUCTION

The migration of workers from underdeveloped countries in Asia, Africa, and South America to Western industrial countries and oil-rich Arab countries in search of better work opportunities and higher pay reached an unprecedented level in the 1980s. It is not surprising that researchers have become interested in this phenomenon and its social, personal, and organizational impacts.

Studies (Al-Bunyan & Lutfi, 1980; Daher & Al-Salem, 1985; Al-Moosa & McLachlan, 1985) conducted in the Arab Gulf countries (i.e., Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates) confirm that some of the major problems encountered by foreign workers in these countries arise from cultural differences and the strenuous process of adapting to a different culture. These studies add that the origins of other important problems can be found in the labor and residence laws and regulation of these countries.

This article seeks to investigate the rights and duties of foreign workers in the Gulf countries and the problems emanating from these legal provisions as reported by foreign workers in one of these countries, namely, Saudi Arabia.

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Foreign Labor in the Gulf Countries

The flow of foreign workers to the Gulf countries began after the discovery and export of oil, but their number remained relatively small until the 1970s. Sharp increases in oil prices and demand between 1973 and 1982 provided the governments of these countries with immense revenues which were more than sufficient to finance the rapid expansion of public services and the implementation of comprehensive modernization and development programs. However, given the acute shortages in indigenous labor, recourse to foreign labor was inevitable in order to implement these ambitious programs. Hence, large numbers of foreign workers were recruited to plan, implement, manage, and operate the numerous projects and services initiated or expanded in the 1970s and early 1980s. Moreover, the growth of the private sector in these countries in response to the increase in public development and welfare expenditure created additional demand for foreign labor.

The number of foreign workers and their dependents residing in these countries reached a peak in the 1980s. Reliable data are lacking, but available sources (e.g., Birks & Sinclair, 1980; Ezz Al-Deen, Abdul Maguid, & Khalil, 1977) indicate that the number of expatriate workers rose from 1.3 million in 1975 to 2.6 million in 1980 and 4.5 million in 1985. These workers come from different countries. According to Al-Moosa and McLachlan (1985), foreign workers in Kuwait belong to 68 different nationalities. Birks and Sinclair (1980) report that Arabs constituted the largest group (73%) in 1975, but their proportion has declined since then, while the number of workers from other Asian countries, especially Bangladesh, India, Pakistan, and the Philippines, has steadily increased. In 1980, Asian workers made up 77% of the foreign work force in the United Arab Emirates (Al-Kasimi, 1987).

Foreign workers and their dependents have outnumbered the native population in Kuwait, Qatar, and the United Arab Emirates (50.5, 68.7, and 70.7%, respectively) (Farjani, 1983). This has alarmed the governments and peoples of these countries and has led to calls for restrictions to be imposed on the employment of foreigners (Daher & Al-Salem, 1982).

The indigenous people fear that this large contingent of foreigners from different cultures will have an unwanted impact on their customs, religion, and culture. This is illustrated by the publicity and attention given to the large-scale employment of foreigners as domestic servants, which is regarded as a major problem. This concern was on the agenda of the fourth and fifth meetings of the Gulf labor ministers held in 1982 and 1983.

A study prepared by the Bahrain's Ministry of Labor and Social Affairs (1982) warns of the hazards involved in employing foreign domestic servants who are mostly non-Arab and non-Moslem. Many local people believe that foreigners are responsible for a large share of the crimes committed in their countries. Also, Gulf governments worry over the potential destabilizing effect these foreigners may have on their political systems (Daher & Al-Salem, 1982; Al-Tamini, 1983).

All six Gulf countries are aiming to reduce their dependence on foreign workers by increasing the indigenous labor force's participation in the labor market. Large funds have been invested in educational and training facilities and programs to achieve this goal (Al-Farris, 1983). In Saudi Arabia, for example, the allocations for education

increased from \$5.1 billion in 1980 to \$7.41 billion in 1985 (Al-Mabouth, 1987). Furthermore, the goal of manpower development was given top priority in the plan for 1985 to 1990 (Kingdom of Saudi Arabia, 1985). Despite these efforts, dependence on foreign labor is expected to continue in the foreseeable future due to persistent shortages in indigenous labor and prevailing social attitudes toward manual work.

Foreigners will continue to seek employment in Gulf countries as long as it is economically advantageous to do so. Most of them come from relatively underdeveloped countries with high rates of unemployment and slow economic growth, such as the Philippines, Pakistan, Thailand, Egypt, and Yemen. They consider themselves fortunate to find employment in Gulf countries. A study of a sample of expatriates in Riyadh in Saudi Arabia ($n = 680$) by Al Bunyan and Lutfi (1980) found that a majority (77%) came to this country to earn higher incomes and improve their standards of living. For the sake of these economic benefits they are willing to endure the hardships resulting from living in a different culture such as social isolation, as confirmed by Al Bunyan and Lutfi's (1980) sample and a majority of expatriates surveyed by Al-Moosa and McLachlan (1985) in Kuwait.

For the native countries, the migration of their labor has both advantages and disadvantages. On the advantages side, migrant workers' remittances have contributed to their countries' reserves of foreign currencies. In 1981, remittances by Pakistani workers in the Gulf countries reached the substantial figure of \$2 billion (Labeeb, 1983). Also, Farjani (1988) reports that between 1975 and 1988 Egyptian workers' remittances constituted one-third of the country's foreign currency earnings, and by 1985 it surpassed all other sources of foreign currency. In addition, emigration has lessened the negative economic, social, and political consequences of high unemployment rates. In contrast, these remittances are often spent on consumer goods and hence result in little real economic gain. Birks and Sinclair (1980) maintain that, on balance, native countries lose more than they gain from the migration of their professional and skilled manpower.

Labor Laws and Foreign Workers

International conventions sponsored by the United Nation's International Labor Office establish the principle of equality of treatment between native and foreign workers. Miller and Martin (1982) report that western European countries have adhered to this principle by granting foreign workers equal rights regarding wages, union membership, and in some cases even the right to strike. In Germany, France, and Switzerland, foreign workers made redundant are entitled to unemployment pay for one year and may participate in vocational training and reorientation programs. Also, some of these countries have established basic standards for housing foreign workers.

In theory at least, foreign workers in the Gulf countries are granted the same basic rights given to the native labor force since the same labor laws apply to both except in Qatar where foreign workers come under the jurisdiction of a slightly different law (Atiyyah, 1990). These laws, however, do not extend their protection to all workers. Foreign workers employed as domestic servants, who comprise a

significant proportion of the foreign labor force, e.g., 8.3% and 11.6% in Kuwait and Bahrain, respectively (Labeeb, 1983), are excluded from the jurisdiction of the labor laws of the Gulf countries and are practically deprived of any legal protection from employer's exploitation. Many foreign domestic servants are subjected to low wages, long work hours, and substandard housing.

Labor laws of the Gulf countries include minimum wage provisions granting the council of ministers or the minister of labor the authority to specify minimum wages. To date, this has not happened in any of the six Gulf countries (Atiyyah, 1990). Since labor unions are either banned or ineffective and collective bargaining is forbidden, wages are mostly determined by employers, especially in the case of manual and semi-skilled foreign labor. Indeed, discrimination on the basis of nationality is openly incorporated in the pay systems of some private companies (Moon, 1986).

Pay systems of several private Saudi Arabian companies, observed by the author in the course of his work as a management consultant in that country from 1982 to 1988, usually classify employees by nationality into four categories: U.S. citizens and Europeans, Saudi Arabians, Arabs, and Asians. In some cases, Asian employees are further subdivided into nationals of the Indian subcontinent countries, namely, India, Pakistan, and Bangladesh, and nationals of southeast Asian countries such as the Philippines, Thailand, and Indonesia. Accordingly, an office manager from a European country would be paid twice or more the salary paid to an Indian and three times the salary a Filipino would be paid, despite the fact that all of them are expected to perform equal work. As a general rule, Saudi Arabians are paid the highest wages. According to Al-Moosa and McLachlan (1985), the situation is much the same in Kuwait, where an unskilled native worker may earn as much as a qualified foreigner.

Al-Kasimi (1987) reports that Gulf employers reject charges of discrimination against foreigners and defend their pay systems by arguing that foreign workers are paid in accordance with pay levels in their home countries. Thus, an Indian office employees would be paid a higher salary than earned in India but lower than the salary paid to a U.S. citizen performing the same work. However, this argument is unconvincing because it fails to consider the cost of living, which is much higher in the Gulf countries than in any of the developing countries from which most expatriates come. Thus, many foreign workers have to subsist on a poor diet and live in squalid dwellings. Al-Moosa and McLachlan (1985) report that in Kuwait a high proportion of foreign laborers, who are not provided with housing and do not receive a housing allowance, often live five to a room. According to Al-Najjar (1983), as many as 14 foreigners are found to occupy a single room in Bahrain. For this reason many foreign workers are unable to bring their families with them. In Kuwait, a foreign worker must have an accommodation and earn a monthly income over KD 400 (approximately \$1600), and in Saudi Arabia the employee must be a manager or a holder of a university degree in order to apply for residence permits for dependents (Atiyyah, 1990).

In 1982, Kuwait followed the example of other Gulf countries by requiring foreign workers to obtain sponsorship. The direct and indirect effects of the sponsorship system on the rights and duties of foreign workers are discussed in the following section.

The Sponsorship System

Under the sponsorship system in the Gulf countries a foreign worker may not be granted a work visa unless he or she has a sponsor. A sponsor may be either a licensed company or a citizen providing employment to the worker. Regulations also forbid working for another employer, i.e., a new sponsor, unless the consent of the initial sponsor is obtained. In Saudi Arabia, a resident foreign worker wishing to depart the country must obtain an exit visa, which can only be issued upon the sponsor's request. These regulations are justified as necessary to control the movement of foreign labor.

In effect, the sponsorship system gives the employer extensive powers over foreign employees. This has fostered insecurity and compliance in foreign workers and made possible their exploitation by unscrupulous employers. By simply threatening the worker with termination of his contract, invalidation of the residence permit, and immediate deportation, the employer can extract many concessions from the expatriate.

Al-Moosa and McLachlan (1985) report several forms of expatriate exploitation in Kuwait for which the sponsorship system is blamed. They describe the plight of foreign workers who upon arrival in Kuwait are assigned work different from the job agreed upon in the contract or paid lower wages. A foreign worker facing this situation may either accept the less-favorable conditions unilaterally introduced by the employer or demand repatriation, which would be at his own expense. Workers, having little or no information about their rights to contest such breaches of contract, usually agree to stay and work under the new terms.

Further information provided by Sarhan *et al.* (1983) indicate that foreign workers in other Gulf countries are subjected to similar exploitation by unscrupulous employers. Fifty-five percent of workers surveyed in their study reported that their employers do not adhere to the provisions of labor contracts. They complained of infringement of statutory work hours and unilateral wage reductions amounting to as much as 50% in some cases. Most importantly, a number of workers claimed that native sponsors sell the services of their foreign workers to other employers at a higher "price" than the wages paid to the workers or demand a percentage of their wages in return for consenting to a transfer of sponsorship.

The degree of control exercised by Gulf employers over their foreign employees has led some serious researchers to describe this state as a form of "temporary enslavement" (Ibrahim, 1982) or "white slavery" (Abdul Rahman, 1983). Available evidence indicates that some forms of foreign workers' exploitation are made possible by the powers given to the employer under the sponsorship system. This proposition is tested using data collected in one of the Gulf countries, namely, Saudi Arabia.

METHODOLOGY

Sample

Similar studies using survey techniques encountered serious difficulties in collecting data from foreign as well as native workers in Saudi Arabia. Daher and Al-Salem (1985) reported that many workers refused to cooperate with them be-

Table I. Subject and Frequency of Letters Requesting Legal Information

Subject of inquiry	Number	Frequency (%)
End-of-service award	49	35.5
Labor contract and conditions of termination	20	14.5
Retirement insurance	16	11.6
Transfer of sponsorship	11	8
Residence permits for dependents	9	6.5
Miscellaneous ^a	33	23.9
Total	138	

^aNumber of each kind of inquiry was less than five.

Table II. Cases of Infringement of Rights Reported by Letter Writers

Nature of infringement	Number	Frequency (%)
Infringement of pay rights	133	47
End-of-service award unpaid or partially paid	42	14.8
Contract renewed under duress	19	6.7
Work hours longer than statutory work hours	17	6
Unjustified dismissal	14	4.9
Annual leave denied	11	3.9
Insurance contribution unpaid by employer	10	3.5
Assigned job different from job specified in contract	8	2.8
Miscellaneous ^a	29	10.2
Total	238	

^aNumber of each kind of infringement was less than five.

cause they believed that their responses would be conveyed to government authorities. The financial assistance needed to conduct a survey of a representative sample of expatriates in these countries was not available since research institutes in Arab countries do not provide grants or any other forms of assistance to external research projects. In view of these limitations, it was decided to use available information on expatriates in Saudi Arabia, which employed 2.66 million foreign workers in 1985, as indicated in its fourth development plan (1985-1990), equivalent to almost 60% of the foreign labor force in the Gulf states.

Data used in this research were obtained from a legal column published regularly in the Saudi Arabian English daily, the *Saudi Gazette*. The column provides legal advice and answers readers' inquiries about labor, residence, and commercial laws and regulations. The research sample included all 403 letters pertaining to labor and residence laws and regulations treated in the column between its first appearance in October 1984 and June 1988. The representativeness of this sample could not be ascertained since only English-speaking workers have access to the

column and the editorial policy concerning the suitability of letters for publication is not known. However, judging from the names of some of the letter writers it can be generalized that they are mostly foreign non-Arab workers. Additional data used in this study were obtained from the 131 cases adjudicated during 1979 by the High Arbitration Committee, which is the labor court of appeal in Saudi Arabia. Unfortunately, information on cases adjudicated by the Committee before or after 1979 were not available to the public according to officials at the Archives Center of the Saudi Arabian Institute of Public Administration.

RESULTS

A majority of letters in the sample ($n = 265$, 66%) reported cases of infringement of worker's rights and asked for legal advice. The remainder, numbering 138 letters (34%), asked for information on labor and residence laws and regulations. Fifty percent of letters asked for information on the legal provisions concerning the termination of contract and the end-of-service award (Table I). The award is paid by the employer to the worker at the end of the employment relationship and is calculated on the basis of the worker's latest gross pay and years of employment.

The total number of cases of infringement of worker's rights is higher than the number of letters because some letters reported more than one infringement (Table II). The largest group of violations alleged by letter writers concern calculation and payment of wages. Many reported that their pay was unlawfully reduced and that their employers coerced them to sign new contracts with lower pay on threat of contract termination. An equally serious infringement reported by a large number of letter writers is delay in payment of wages, extending to 15 months in one case.

Irregularities in calculation and payment of an end-of-service award is the second major infringement in order of frequency. Although the formula for calculating the award is clear and simple, many letter writers reported that their employers refused to pay them the full amount of the award, and some claimed that they were denied payment entirely.

The third major complaint is renewal of contract under duress. Typically, the worker who submits his resignation or informs his employer of his intention to do so is subjected to various forms of threats and intimidation to coerce him to change his mind. A number of letter writers allege that their employers threatened them with imprisonment, and one was warned by his colleagues that if he resigned, "something bad might happen to him."

The total number of appeals on which the High Arbitration Committee passed judgment in 1979 was small (Table III). Sarhan *et al.* (1983) reported that a labor official in an unnamed Gulf state—not Saudi Arabia—declared that 2,500 complaints concerning wages and the end-of-service award were lodged with the labor office in 1981, and that this figure constituted only a small fraction of the total number of infringement cases.

Seventy-one of the 131 appealed cases were originally brought before the Primary Arbitration Committee by the Ministry of Labor and Social Affairs and the rest by workers. Of the 60 cases initiated by workers, 51 were filed by Saudi Arabian

Table III. Breakdown of Appeal Lawsuits Adjudicated by the High Arbitration Committee in 1979

Nature of lawsuit	Number	Frequency (%)
Unfair dismissal	49	37.4
Illegal transfer of labor	20	15.3
Violation of pay rights	10	7.6
Assigned job different from job specified in contract	8	6.1
Infringement of right to end-of-service award	7	5.3
Miscellaneous	37	28.2
Total	131	

*Number of each kind of lawsuit was less than five.

and Arab workers, eight by workers from the United States and European countries, and only one by an Asian worker. This is remarkable because of a total of 1,230,000 foreign workers in Saudi Arabia in 1979, 28% were non-Arab Asians, while U.S. and European nationals comprised only 3% (The Economist Intelligence Unit, 1984).

Asian workers in other Gulf countries are also reluctant to seek legal redress. Sarhan *et al.* (1983) report that less than 10% of Asian workers involved in disputes with their employers resort to the courts. Most of them believe that if they sue their employers they would eventually be dismissed from their jobs and deported. Many of them are also illiterate and hence are ignorant of the laws and regulations governing their rights and duties.

DISCUSSION AND CONCLUSION

Results obtained here indicate, in conformity with the proposition suggested above, that the sponsorship system is frequently abused by some unscrupulous employers to deprive workers of their rights. By granting the employer the authority to veto the worker's request to have his sponsorship transferred to another employer and hence effect his speedy deportation, the sponsorship system gives the employer excessive powers over foreign employees. Thus, in return for retaining his services, the worker is sometimes forced to make concessions to the employer such as accepting a pay reduction. The extent of the employer's power is clearly illustrated by the proportion of the letters (7%) who claimed that they were coerced to sign new contracts. Similarly, the worker whose contract has been terminated and finds work with another employer may be asked by his previous employer to exchange some of his rights (e.g., his end-of-service award) in return for the employer's consent to a transfer of his sponsorship.

The worker's recourse to the labor court is made extremely difficult by the employer's ability to have the worker deported at short notice. The worker may be deported before he has the chance to file a suit or even seek legal help and appoint a legal representative.

Informing the worker of his statutory rights and duties is useful, but other measures are also necessary to reduce the likelihood of infringement of worker's rights. The labor offices must be assigned a more active role in safeguarding worker rights. Qualified legal advisors must be available in these offices to provide workers with legal advice on their rights and duties. Furthermore, the laws and regulations must be amended so that an expatriate whose contract has been terminated is allowed to stay long enough to collect his entitlements, to consider legal action against his employer, and to search for alternative employment. Until he finds another job or is repatriated, he may be placed under sponsorship of the labor office. Unless these or other effective measures are taken to protect foreign workers' rights in Saudi Arabia in particular, and in the Gulf states in general, infringement of these rights by unscrupulous employers is likely to continue.

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